

OFFICE OF CITY ATTORNEY

DANIEL J. CURTIN, JR.  
CITY ATTORNEY

CITY HALL  
1666 NORTH MAIN STREET  
WALNUT CREEK, CALIFORNIA 94596  
(415) 943-5813

DAVID L. BENJAMIN  
ASSISTANT CITY ATTORNEY

October 16, 1981

RECEIVED  
OCT 17 1981  
STATE BOARD OF CONTROL

Mr. Don A. Provost  
Assistant to the Executive Secretary  
State Board of Control  
926 "J" Street, Suite 300  
Sacramento, California 95814

Re: Proposed Parameters and Guidelines for Reimbursement  
of Costs Mandated by the State through Chapter 1143,  
Statutes of 1980; General Plan Housing Element Re-  
quirements

Dear Mr. Provost:

The undersigned testified before the State Board of Control at its August 19, 1981 meeting, on behalf of the City of El Monte's position that Chapter 1143 of the 1980 Statutes was a legislative mandate. At that meeting, as you are aware, the Board concurred in our position. Since that time, I have had the privilege to review in detail the proposed parameters and guidelines for reimbursement of costs submitted to you by Mr. William D. Ross on behalf of the City of El Monte. In addition, I have reviewed the State Department of Housing and Community Development comments and Mr. Ross' response to those addressed to you, dated October 7, 1981.

On behalf of the City of Walnut Creek and, I am sure, on behalf of those other cities who had previously given support to the City of El Monte in this matter, I wish to state emphatically that we agree with the proposed guidelines and parameters prepared by Mr. Ross and do not support the changes suggested by Housing and Community Development.

Thank you for your consideration in this matter.

Very truly yours,

DANIEL J. - CURTIN, JR.

DJC:ct

cc: William D. Ross  
Carolyn Burton

LAW OFFICES OF  
**MESERVE, MUMPER & HUGHES**

EDWIN A. MESERVE (1863-1955)    SHIRLEY E. MESERVE (1889-1959)    HEWCINGS MUMPER (1889-1968)    CLIFFORD E. HUGHES (1894-1981)

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JOAN E. AARESTAO  
MICHAEL J. COLLINS  
WILLIAM D. ROSS  
BOYD D. HUDSON  
LYNNE M. OSHITA

OF COUNSEL  
LEO E. ANDERSON & HODGE L. DOLLE

*File*  
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TELEPHONE: (714) 752-8995

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OUR REF. NO.

November 4, 1981

STATE BOARD OF CONTROL

Mr. Don Provost  
Assistant to the Executive Secretary  
State Board of Control  
926 J Street  
Suite 300  
Sacramento, California 95814

Re: Chapter 1143, Statutes of 1980 ; SB-90 Claim of City of  
El Monte, et al. regarding Increased Housing Costs associated  
with General Plan Housing Element Revision

Dear Mr. Provost:

The purpose of this communication is to confirm, pursuant to our  
conversation, that the matter of the Board's consideration of  
proposed parameters and guidelines in the area noted above will be  
continued to the December 16, 1981 meeting of the State Board of  
Control.

Very truly yours,

*William D. Ross*

William D. Ross  
for **MESERVE, MUMPER & HUGHES**

WDR/je

cc: Ms. Melissa A. Taubman  
Ms. Paula A. Jesson  
Mr. Allan Burdick  
Mr. Dan Harrison

LAW OFFICES OF  
MESERVE, MUMPER & HUGHES

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MICHAEL J. COLLINS  
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LYNNE M. OSHITA

OF COUNSEL  
LEO E. ANDERSON    HODGE L. DOLLE

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TELEPHONE: (714) 752-6995

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NOV 28 1981

STATE BOARD OF CONTROL

OUR REF. NO.

November 25, 1981

Mr. Don A. Provost  
Assistant to the Executive Secretary  
State Board of Control  
926 J Street  
Suite 300  
Sacramento, California 95814

Re: Proposed Parameters and Guidelines for Reimbursement of Costs  
Mandated by the State through Chapter 1143, Statutes of 1980;  
General Plan Housing Element Requirements

Dear Mr. Provost:

The purpose of this communication is to offer additional evidence in support of the parameters and guidelines proposed by the City of El Monte.

Please find enclosed the declarations of Phillip Paxton, the Planning Director of the City of Yorba Linda, and of Maureen Cassingham, the Planning Director of the City of Villa Park concerning the above-entitled matter.

These declarations, after laying sufficient foundational facts, establish once again that the referenced local agencies incurred costs mandated by the State as a result of Chapter 1143, Statutes of 1980. The declarations also quite plainly point out that the views expressed by a William Cunningham in a declaration dated September 22, 1981, do not reflect the views of the respective cities, or their planning staffs.

Further, each declaration specifically notes the "increased level of service" which each city experienced as a result of AB-2853. It is suggested that such facts support the proposed parameters and guidelines of the City of El Monte as set forth in our prior communication to your office dated September 11, 1981. The

Mr. Don A. Provost  
Page Two  
November 25, 1981

declarations also support the position of the City of El Monte set forth in our letter dated October 7, 1981 to your office.

The City of El Monte would formally object to the inclusion of the referenced declaration of Mr. Cunningham on the basis that there is insufficient foundation layed in that document to allow Mr. Cunningham to testify as an expert in the planning field. A further basis for objection is that the declaration is conclusionary in nature and does not state any opinion based on ultimate facts. Finally, the opinions stated by Mr. Cunningham are objectionable because he does not set forth the method by which he compared the functions required to be performed by local agencies under the 1977 Guidelines as opposed to those duties mandated by AB-2853.

Notwithstanding the objections just noted, if the declaration is admitted by the Board, the City of El Monte would note that it does not support the position of the State Department of Housing and Community Development that local agencies would experience a cost savings as a result of the passage of AB-2853.

Finally, we would note that the Cities of Yorba Linda and Villa Park would not expend \$2,000.00 and \$4,600.00, respectively, if the Housing Element is to be prepared in an identical manner under the 1977 Guidelines and AB-2853 as contended by Mr. Cunningham.

Very truly yours,



William D. Ross  
for MESERVE, MUMPER & HUGHES

WDR/je  
Encls.

cc: Carolyn Burton  
Melissa A. Taubman  
Paula A. Jesson  
Allan Burdick  
Dan Harrison

DECLARATION OF PHILLIP PAXTON

I, PHILLIP PAXTON, declare:

1. I am the Planning Director of the City of Yorba Linda. In that capacity, I am responsible for supervising the preparation of the City of Yorba Linda's planning and zoning legislation, including the Housing Element which the City of Yorba Linda has enacted as part of its General Plan pursuant to Government Code Section 65302. As the Planning Director of the City of Yorba Linda, I am familiar with the provisions of both the Planning and Zoning Law, Government Code Section 65000, et seq., and the Housing Element Guidelines promulgated by the State Department of Housing and Community Development, as well as A.B. 2853 (Roos), enacted as Chapter 1143 of the Statutes of 1980. I have also reviewed the declaration executed by William Cunningham, dated September 22, 1981, prepared in connection with the City of El Monte's proceedings to obtain State reimbursement for the cost of preparing its new Housing Element. If called as a witness in this matter, I would testify competently as to the following:

2. It is my opinion, from studying and implementing the advisory Housing Element Guidelines and A.B. 2853, that the requirements in Government Code Section 65580, et seq., (enacted as 53 of A.B. 2853) require greater specificity than did the earlier version of Government Code Section 65302 and the advisory Housing Element Guidelines. This greater specificity in A.B. 2853 consequently increases the cost of preparing a Housing Element. In addition, the fact that each city must submit its proposed

1 Housing Element to HCD for review and comments, and then consider  
2 HCD's findings prior to adopting the Housing Element, further  
3 increases the cost of its preparation. Finally, under A.B. 2853,  
4 increased costs are also incurred because a work program must be  
5 established describing the procedure for preparing a Housing  
6 Element. These increased costs resulting from the enactment of  
7 A.B. 2853 are magnified when the Housing Element is prepared and/or  
8 edited by contracting individuals and entities, as was the case  
9 with Yorba Linda.

10 3. In connection with the City of Yorba Linda's preparation  
11 of a Housing Element to conform to the requirements of A.B. 2853,  
12 the City contracted with William Cunningham to edit and revise  
13 the City's Housing Element from previously prepared base data.  
14 The City paid Mr. Cunningham \$2,000.00 for 'his revisions and  
15 editing of the Housing Element. It is my opinion that the City's  
16 contracting with Mr. Cunningham, and the payment to Mr. Cunningham  
17 of \$2,000.00 for his services were necessitated substantially by  
18 the enactment of A.B. 2853.

19 4. While the City's letter contract with Mr. Cunningham  
20 for his services in editing and revising the City's new Housing  
21 Element did not expressly preclude Mr. Cunningham from executing  
22 any declaration or taking any positions which might someday be  
23 contrary to the interests of, or adversely affect the City's  
24 position with regard to, reimbursement from the State, it is my  
25 belief that the opinions expressed by Mr. Cunningham regarding  
26 the costs of preparing a Housing Element under the advisory  
27 Housing Element Guidelines as opposed to preparing a Housing  
28 Element under A.B. 2853 are incorrect, and differ significantly

1 with the opinion on this subject which either I, my staff, or the  
2 City of Yorba Linda have regarding the increased costs necessitated  
3 by the requirements in A.B. 2853.

4 I declare under penalty of perjury that the foregoing is  
5 true and correct.

6 Executed on November 16, 1981, at Yorba Linda, California.

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9 PHILIP PAXTON

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1. I am the Planning Director of the City of Villa Park and, in that capacity, am responsible for supervising the preparation of the planning and zoning legislation and regulations of the City of Villa Park. As the Planning Director, I am familiar with the provisions of both the Planning and Zoning Law, Government Code Section 65000, et seq., and the Housing Element Guidelines promulgated by the State Department of Housing and Community Development, as well as A.B. 2853 (Roos), enacted as Chapter 1143 of the Statutes of 1980. I have also reviewed the declaration executed by William Cunningham, dated September 22, 1981, prepared in connection with the City of El Monte's proceedings to obtain State reimbursement for the cost of preparing its new Housing Element. If called as a witness in this matter, I would testify competently as to the following:

2. It is my opinion, from my review and analysis of both the Housing Element Guidelines and A.B. 2853, that the requirements of Government Code Section 65580, et seq., require greater detail than did the prior version of Government Code Section 65302 and the advisory Housing Element Guidelines, in addition to new requirements such as periodic updates and- revisions of Housing Elements. In particular, the provisions of Government Code Section 65583, which require an assessment of housing needs and an inventory of resources, require greater specificity than the Housing Element Guidelines; the five year schedule, which the City is required to establish to implement the Housing Element



1 under A.B. 2853, likewise constitutes a more in depth analysis  
2 than did the advisory Guidelines. This increased detail required  
3 under A.B. 2853 consequently increases the cost of preparing  
4 a Housing Element. In my opinion, the greater detail required  
5 under A.B. 2853 constitutes an increased level of service  
6 relative to the prior statutory requirements and advisory  
7 Guidelines governing the preparation of a Housing Element.

8 3. The City of Villa Park contracted with William  
9 Cunningham to prepare a Housing Element for the City in compliance  
10 with the prior version of Government Code Section 65302 and the  
11 Housing Element Guidelines adopted by the Department of Housing  
12 and Community Development, and paid \$4,600.00 to Mr. Cunningham  
13 for these services. While the City's contract with Mr. Cunningham  
14 for his preparation of Villa Park's proposed Housing Element did  
15 not expressly preclude him from executing any declaration or  
16 taking any positions which might someday be contrary to the  
17 interests of, or adversely affect the City's position with  
18 regard to, reimbursement from the State, it is my belief that  
19 the opinions expressed by Mr. Cunningham regarding the costs of  
20 preparing a Housing Element under the advisory Housing Element  
21 Guidelines as opposed to preparing a Housing Element Under  
22 A.B. 2853 are incorrect, and differ significantly with the opinion  
23 on this subject which either I, my staff, or the City of Villa  
24 Park have regarding the increased costs necessitated by the  
25 requirements in A.B. 2853.

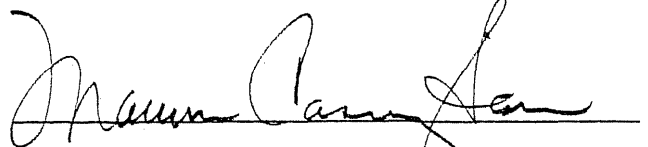
26 I declare under penalty of perjury that the foregoing is

27 /////

28 /////

1 true and correct.

2 Executed on November 17, 1981, at Villa Park, California.

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5 MAUREEN CASSINGHAM  
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LAW OFFICES OF  
**MESERVE, MUMPER & HUGHES**

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OF COUNSEL  
LEO E. ANDERSON L. HOOGE L. OOLLE

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TELEPHONE: (714) 752-8995

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OUR REF. NO.

STATE BOARD OF CONTROL

December 1, 1981

Mr. Don A. Provost  
Assistant to the Executive Secretary  
State Board of Control  
926 J Street  
Suite 300  
Sacramento, California 95814

Re: State Board of Control \*Proposed Parameters and Guidelines for  
Reimbursement of costs Mandated by the State through  
Chapter 1143, Statutes of 1980; General Plan Housing Element  
Requirements

Dear Mr. Provost:

Consistent with our telephonic conversation of November 25, 1981,  
please find set forth hereinbelow the views of the City of El Monte  
with respect to the above-entitled matter.

It is the position of the City of El Monte that the parameters and  
guidelines proposed by staff overlook substantial areas of the  
referenced legislation which effected either a new program or an  
increased level of service for local agencies. Stated another way,  
the involved legislation required local agencies to perform and  
accomplish many more duties than just including in the Housing  
Element of their General Plan an appropriate share of regional  
demand for housing.

We would generally note that the activities specified in numbers  
one through five of the proposed parameters and guidelines are  
vague and sometimes ambiguous. We believe that generalized  
parameters and guidelines of this nature can only lead to increased  
disagreement between local agencies and the Controller's Office and  
the State Board of Control concerning what is a reimbursable cost,

Mr. Don A. Provost  
Page Two  
December 1, 1981

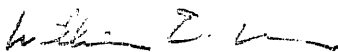
You will recall that in our meeting of September 3, 1981, both yourself and the representative from the State Department of Housing and Community Development requested very specific parameters and guidelines delineating exactly what local agencies were required to do over and above their previous obligations in the Housing Element content area by the referenced legislation. In specific response to that request, this office prepared very detailed parameters and guidelines on the specific duties which local agencies are now required to perform by Chapter 1143. Those duties are specifically set forth in numbered paragraphs one through eleven in the City of El Monte's proposed parameters and guidelines. You will note that those parameters and guidelines, as well as being content specific, reference specific sections of the Government Code which set forth the obligations noted.

We further believe that it was the Board's intent when it found a mandate in this area that the mandate consisted of those specific duties referenced in the 11 paragraphs just noted.

The City of El Monte does believe there is a controversy between various agencies and local agencies as to whether or not the costs of internal consistency and the necessary and appropriate costs of preparing an environmental assessment are reimbursable costs. But, on the underlying issue of what Chapter 1143 required, we believe the details specified in the City of El Monte's proposed parameters and guidelines more than adequately address the specific demands placed on local agencies.

We would hope that the staff would reevaluate their position prior to the hearing in this matter.

Very truly yours,

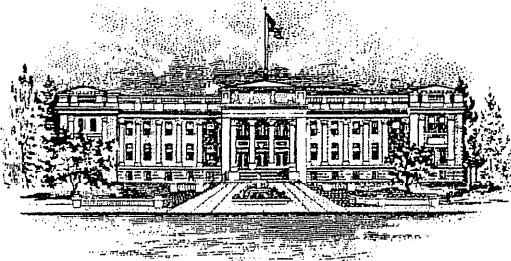


William D. Ross  
for MESERVE, MUMPER & HUGHES

WDR/je

cc: Sidney Maleck, City Attorney  
City of El Monte  
Melissa A. Taubman  
County of Los Angeles  
Paula A. Jesson  
City and County of San Francisco  
Dan Harrison  
League of California Cities  
Allan Burdick  
County Supervisors Association

## SECTION V - A4



# COUNTY OF YOLO

COMMUNITY DEVELOPMENT AGENCY

292 West Beamer Street

Woodland, Ca 95695

Telephone: (916) 666-8556

December 1, 1981

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DEC 3 1981

STATE BOARD OF CONTROL

Mr. Don A. Provost  
Assistant to the Executive Secretary  
California State Board of Control  
926 J Street, Suite 300  
Sacramento, California 95814

Dear Mr. Provost:

I have received the Proposed Parameters and Guidelines for Reimbursement of Mandated Costs incurred under Chapter 1143, Statutes of 1980; General Plan Housing Element Requirements, which you forwarded to Mr. William D. Ross.

Please be advised that this Agency is concerned that the Proposed Parameters and Guidelines appear to us to be too general so as to leave too much time for future interpretation. If future determinations are necessary because the Guidelines are not explicit enough it only stands to reason that future misunderstandings will result. Such misunderstandings are costly to both the State and local agencies and should be avoided.

In addition, it concerns us that reimbursement for environmental review is not included. A project may not be completed without environmental review, including preparation of an environmental impact report. If the State is mandating the increased work load on local agencies, it should recognize that in many instances this requires future environmental documentation which should be subject to reimbursement.

In prior discussions with Mr. Ross and review of materials prepared for the City of El Monte, it appears to us that that document is more explicit, direct, and appropriate for the subject matter than the Proposed Parameters and Guidelines prepared by staff.

We would, therefore, urge the State Board of Control to adopt the Proposed Parameters and Guidelines of the City of El Monte.

Very truly yours,

JEFF L. B. (BEN) HULSE  
Director

JLBH: gjb

cc: William D. Ross, Esq.

CURRENT PLANNING &  
ORDINANCE DEVELOPMENT  
666-8556

ADVANCE, HOUSING &  
PARKS PLANNING  
666-43537

BUILDING & SITE  
INSPECTION  
666-8531

PUBLIC BUILDING &  
ARCHITECTURAL SERVICES  
666-8531

TO

12/16

# MONTEREY COUNTY



OFFICE OF THE COUNTY COUNSEL

(408) 424-8611, EXT. 296 • P.O. BOX 1587, COURTHOUSE, SALINAS, CALIFORNIA 93902

RALPH R. KUCHLER  
COUNTY COUNSEL

December 1, 1981

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DEC 4 1981

STATE BOARD OF CONTROL

Executive Secretary  
State Board of Control  
926 J Street, Suite 300  
Sacramento, California 95814

Re: Proposed Parameters and Guidelines for  
Reimbursement of Mandated Costs Incurred  
[REDACTED] Statutes of 1980,  
1980-81 F.Y.  
State Board of Control Meeting December  
16, 1981.

Dear Sir:

The County Counsel of Monterey County supports the position of the City of El Monte concerning the proposed parameters and guidelines for making claim under the general plan housing element requirements. (Chapter 1143, Statutes of 1980.)

Please include this letter in the packet to the Board of Control for its meeting on December 16.

Yours very truly,

RALPH R. KUCHLER

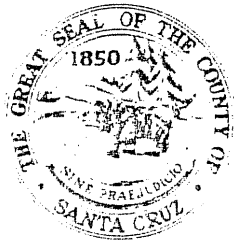
*Jose Rafael Ramos*

Jose Rafael Ramos  
Senior Deputy County Counsel

JRR:dr

cc: William D. Ross, Esq.  
Monterey County Planning Director

OFFICE OF THE  
COUNTY COUNSEL



COUNTY OF SANTA CRUZ

GOVERNMENTAL CENTER

701 OCEAN STREET SANTA CRUZ, CALIFORNIA 95060

(408) 425-204 1

CLAIR A. CARLSON  
COUNTY COUNSEL

DWIGHT L. HERR  
CHIEF DEPUTY COUNTY COUNSEL

December 2, 1981

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DEC 4 1981

JAMES M. RITCHEY  
JONATHAN WITTWER  
REBECCA J. CLEWETT  
DEBORAH HOPKINS  
ASSISTANTS

Mr. Ray Banion  
Assistant to the Executive Director  
State Board of Control  
926 "J" Street, Suite 300  
Sacramento, California 95814

Re: Proposed Parameters and Guidelines for Reimbursement  
of Mandated Costs Incurred under [REDACTED] Statutes  
of 1980; General Plan Housing Element Requirements

Dear Mr. Banion:

This is to express the views of this office on behalf of  
the County of Santa Cruz concerning the above-referenced subject.

We have reviewed the parameters and guidelines proposed by  
the staff of the State Board of Control as well as those pro-  
posed by the City of El Monte and strongly endorse those sub-  
mitted by the City of El Monte. In particular, we support  
El Monte's more comprehensive enumeration and description  
of activities that are required by Chapter 1143, Statutes  
of 1980, the costs of which are reimbursable. One very notable  
omission from the reimbursable activities suggested by staff's  
proposed parameters and guidelines regards the costs incurred  
for environmental documentation that may be required in revising  
the housing element of the general plan. We submit that the para-  
meters and guidelines must expressly provide for reimbursement  
for the increased costs associated with environmental review.

Your consideration of the views expressed in this communi-  
cation is appreciated.

Very truly yours,

CLAIR A. CARLSON, COUNTY COUNSEL

BY:   
DEBORAH HOPKINS  
Assistant County Counsel

DH:ji

cc: County Supervisors Association of California  
Attn: Allan Burdick



OFFICE OF CITY ATTORNEY

DANIEL J. CURTIN, JR.  
CITY ATTORNEY

CITY HALL  
1666 NORTH MAIN STREET  
WALNUT CREEK, CALIFORNIA 94596  
(415) 943-5613

DAVID L. BENJAMIN  
ASST. CITY ATTORNEY

December 2, 1981

RECEIVED  
CO 41001

Mr. Don A. Provost  
Assistant to the Executive Secretary  
State Board of Control  
926 J Street, Suite 300  
Sacramento, California 95814

STATE BOARD OF CONTROL

Re: Proposed Parameters and Guidelines for Reimbursement  
of Mandated Costs Incurred Under Chapter 1143, Statutes  
of 1980, 1980-81 F.Y. (Housing Element: Locality's  
Share of Regional Housing Needs ) SB 90-3916

Dear Mr. Provost:

On behalf of the City of Walnut Creek and other cities similarly situated, we wish to register our objections to the Parameters and Guidelines proposed by the staff of the State Board of Control concerning the above entitled matter. As you are aware, the City of Walnut Creek through myself testified on this matter before the State Board of Control.

One of the reasons for this objection is that the amounts that would be allowed to be claimed under the Proposed Parameters and Guidelines of the staff would vary significantly with those proposed on behalf of the City of El Monte on August 19, 1981. We have previously indicated to you our support of the proposed parameters and guidelines submitted by the City of El Monte and we wish to reiterate that support. For example, one key deficiency in the Proposed Parameters and Guidelines is the fact that they eliminate any cost reimbursement for any environmental documentation which may be required when accomplishing a revised Housing Element as required by the referenced legislation. Also the Parameters and Guidelines proposed by the staff are so vague that it would seem disputes over reimbursable costs would arise as a matter of course.

Thank you very much for this opportunity to present our comments.

Sincerely,

  
DANIEL J. CURTIN, JR.

DJC:ct

cc: Bill Ross, Sydney Malek, City of El Monte  
Carolyn Burton, Housing and Community Development  
Dan Harrison, League of California Cities  
Allan Burdick, CSAC

# WILLDAN ASSOCIATES CI ENGINEERS, ARCHITECTS & PLANNERS



Anaheim, Cerritos, Ventura, Lancaster, San Bernardino and San Diego, California

Phoenix, Flagstaff, and Prescott, Arizona

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DECLARATION OF GARY H. WERNER,  
URBAN PLANNING SERVICES DIRECTOR -

STATE BOARD OF CONTROL

WILLDAN ASSOCIATES

1. I am educated and trained as a community planner and graduated from an AIP accredited university in 1974. I have been employed as a professional planner for the past eight years as assistant planner for the City of Antioch, California (1974 to 1978); Planning Director for the City of La Canada Flintridge, California (1978 to 1980); and currently as Urban Planning Services Director for Willdan Associates, Orange, California, I am an associate member of the American Planning Association, eligible for AICP membership.
2. In my capacity as Urban Planning Services Director with Willdan Associates I have been involved in the preparation of housing elements for several California cities including the Cities of El Monte, Norwalk and Rosemead. I have prepared housing elements pursuant to both the 1) Government Code Section 65302 (c) and the 1977 Housing Element Guidelines; and 2) provisions of Article 10.6 of the Government Code (AB 2853).
3. It is my professional opinion that the preparation of a housing element pursuant to former Government Code Section 65302 (c) allows cities sufficient flexibility in the method and extent in which standards and plans for the improvement of housing and for the provision of adequate sites for housing can be developed; whereas, a housing element prepared pursuant to Article 10.6 requires the element to be prepared and conform to a very comprehensive

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DEC 8 1981

Declaration of Gary H. Werner,  
page 2

STATE BOARD OF CONTROL

analysis regardless of the city's size, age of housing stock, land availability for new development amongst other factors which may limit the degree of analysis and cost associated with development of the housing element,

4. It is further my professional opinion that AB 2853 not only imposes costs on cities to comply with the substantive requirements of the Bill, which may have not otherwise been required; but also, the time constraints imposed on local city staff's to adopt the housing element by October 1, 1981 initially, has forced some cities to hire supplemental staff (or consultants) to immediately prepare either a housing element which conforms to AB 2853 or the previous Government Code Section 65302 (c) and the 1977 Housing Element Guidelines in a good faith effort and response to the Legislative mandate.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and experience.

Executed this fourth day of December, 1981 at Orange, California.



---

Gary H. Werner

# WILLDAN ASSOCIATES □ ENGINEERS, ARCHITECTS & PLANNERS



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Phoenix, Flagstaff, and Prescott, Arizona

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STATE BOARD OF CONTROL

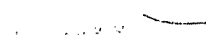
Mr. Don Provost  
State Board of Control  
926 J Street  
Sacramento, Ca. 95814

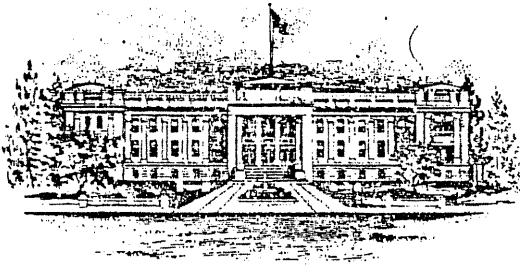
Subject: Proposed Parameters' and Guidelines  
Chapter 1143, Statutes of 1980 (AB 2853)

Dear Mr. Provost:

Attached to this letter you will find my Declaration of Professional Opinion relative to the State Board of Control's impending decision on the costs associated with the development of housing elements prepared pursuant to AB 2853. I would appreciate your including this Declaration in support of the City of El Monte's claim for reimbursement with the recent submission of Mr. William Ross, attorney for the consideration by the State Board of Control on December 16, 1981.

Sincerely,

  
Gary H. Werner  
Urban Planning Services Director



# COUNTY OF YOLO

COMMUNITY DEVELOPMENT AGENCY

292 West Beamer Street

Woodland, Ca 95695

Telephone: (916) 666-8556

December 1, 1981

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DEC 18 1981  
STATE BOARD OF CONTROL

Mr. Don A. Provost  
Assistant to the Executive Secretary  
California State Board of Control  
926 J Street, Suite 300  
Sacramento, California 95814

Dear Mr. Provost:

I have received the Proposed Parameters and Guidelines for Reimbursement of Mandated Costs incurred under Chapter 1143, Statutes of 1980; General Plan Housing Element Requirements, which you forwarded to Mr. William D. Ross.

Please be advised that this Agency is concerned that the Proposed Parameters and Guidelines appear to us to be too general so as to leave too much time for future interpretation. If future determinations are necessary because the Guidelines are not explicit enough it only stands to reason that future misunderstandings will result. Such misunderstandings are costly to both the State and local agencies and should be avoided.

In addition, it concerns us that reimbursement for environmental review is not included. A project may not be completed without environmental review, including preparation of an environmental impact report. If the State is mandating the increased work load on local agencies, it should recognize that in many instances this requires future environmental documentation which should be subject to reimbursement.

In prior discussions with Mr. Ross and review of materials prepared for the City of El Monte, it appears to us that that document is more explicit, direct, and appropriate for the subject matter than the Proposed Parameters and Guidelines prepared by staff.

We would, therefore, urge the State Board of Control to adopt the Proposed Parameters and Guidelines of the City of El Monte.

Very truly yours,

JEFF L. B. (BEN) HULSE  
Director

JLBH:gjb

cc: William D. Ross, Esq.

CURRENT PLANNING &  
ORDINANCE DEVELOPMENT  
666-8556

ADVANCE, HOUSING &  
PARKS PLANNING  
666-8557

BUILDING & SITE  
INSPECTION  
666-8571

PUBLIC BUILDING &  
ARCHITECTURAL SERVICES  
666-8531

SACRAMENTO ADOR38  
ROOM 201 B, STATE CAPITOL  
SACRAMENTO 958 14  
(916) 445-7783

DISTRICT OFFICE ADDRESS  
11 100 VALLM BOULEVARD  
SUITE 106  
EL MONTE, CA 91731  
(213) 442-9100



# Assembly California Legislature

COMMITTEES:  
CONSUMER PROTECTION AND  
TOXIC MATERIALS  
EDUCATION  
GOVERNMENTAL ORGANIZATION  
LABOR AND EMPLOYMENT  
SUBCOMMITTEE  
EDUCATIONAL REFORM

**SALLY TANNER**  
ASSEMBLYWOMAN, SIXTIETH DISTRICT  
**CHAIRWOMAN**  
**COMMITTEE ON CONSUMER PROTECTION AND TOXIC MATERIALS**

December 11, 1981

Peter Pelkofer  
Member, State Board of Control  
State Controller's Office  
State Capitol  
Sacramento, Ca 95814

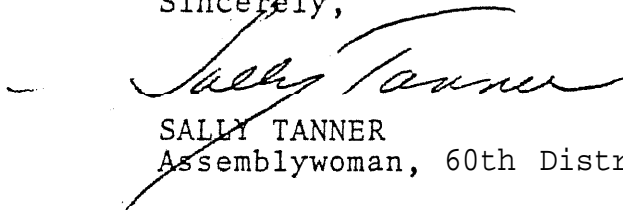
Dear Mr. Pelkofer:

I am writing to you in behalf of the City of El Monte which has an SB 90 claim before the State Board of Control for costs associated with the Preparation of a General Plan Housing Element.

Having reviewed the proposed parameters and guidelines prepared by both the Board and the City of El Monte, I find the city's parameters and guidelines more explicit, less ambiguous, thus eliminating future problems as a result of conflict in the interpretation.

I strongly urge the Board of Control to accept the parameters and guidelines submitted by the City of El Monte.

Sincerely,

  
**SALLY TANNER**  
Assemblywoman, 60th District

ST/bb

Cc: Sidney Maleck, City Attorney  
City of El Monte  
William D. Ross, Attorney

SACRAMENTO ADDRESS  
ROOM MI 6, STATE CAPITOL  
SACRAMENTO 95814  
(916) 445-7783

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# Assembly California Legislature

COMMITTEES:  
CONSUMER PROTECTION AND  
TOXIC MATERIALS  
EDUCATION  
GOVERNMENTAL ORGANIZATION  
LABOR AND EMPLOYMENT  
SUBCOMMITTEE  
EDUCATIONAL REFORM

SALLY TANNER  
ASSEMBLYWOMAN, SIXTIETH DISTRICT  
CHAIRWOMAN  
COMMITTEE ON CONSUMER PROTECTION AND TOXIC MATERIALS

December 11, 1981

Edwin W. Beach  
Member, State Board of Control  
5727 Spillman Avenue  
Sacramento, Ca 95819

Dear Mr. Beach:

I am writing to you in behalf of the City of El Monte which has an SB90 claim before the State Board of Control for costs associated with the Preparation of a General Plan Housing Element.

Having reviewed the proposed parameters and guidelines prepared by both the Board and the City of El Monte, I find the city's parameters and guidelines more explicit, less ambiguous, thus eliminating future problems as a result of conflict in the interpretation.

I strongly urge the Board of Control to accept the parameters and guidelines submitted by the City of El Monte.

Sincerely,

A handwritten signature in cursive script that reads "Sally Tanner".

SALLY TANNER  
Assemblywoman, 60th District

ST/bb  
cc: Sidney Maleck, City Attorney  
City of El Monte  
William D. Ross, Attorney

SACRAMENTO ADDRESS  
ROOM 20 16, STATE CAPITOL  
SACRAMENTO 95814  
(916) 445-7783

DISTRICT OFFICE ADDRESS  
11100 VALLEY BOULEVARD  
SUITE 108  
EL MONTE, CA 91731  
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# Assembly California Legislature

COMMITTEES:  
CONSUMER PROTECTION AND  
TOXIC MATERIALS  
EDUCATION  
GOVERNMENTAL ORGANIZATION  
LABOR AND EMPLOYMENT  
SUBCOMMITTEE  
EDUCATIONAL REFORM

**SALLY TANNER**  
ASSEMBLYWOMAN, SIXTIETH DISTRICT  
**CHAIRWOMAN**  
**COMMITTEE ON CONSUMER PROTECTION AND TOXIC MATERIALS**

December 11, 1981

David E. Janssen  
Chairman, State Board of Control  
915 Capitol Mall, Suite 590  
Sacramento, Ca 95814

Dear Chairman Janssen:

I am writing to you in behalf of the City of El Monte which has an SB 90 claim before the State Board of Control for costs associated with the Preparation of a General Plan Housing Element.

Having reviewed the proposed parameters and guidelines prepared by both the Board and the City of El Monte, I find the city's parameters and guidelines more explicit, less ambiguous thus eliminating future problems caused by conflict in the interpretation.

I strongly urge the Board of Control to accept the parameters and guidelines submitted by the City of El Monte,

Sincerely,

A handwritten signature in cursive script that reads "Sally Tanner".

SALLY TANNER  
Assemblywoman, 60th District

ST/bb

cc: Sidney Maleck, City Attorney  
City of El Monte  
William D. Ross



## SECTION V – BI

Section I. B. 1.

TAYLOR • CALIFORNIA

OFFICE MEMO

STD. 100 (REV. 11-75)

DATE

9/25/81

TO:

Don Provost  
State Board of Control  
926 J St., Suite 300

ROOM NUMBER

FROM:

Carolyn Burton  
Legal Office  
Housing & Community Development  
921 Tenth St., 7th Floor

PHONE NUMBER

3-7288

SUBJECT:

Don:

There was a significant mistake on  
page 14 in the copy I gave you on Thursday,  
(cost figure on bottom total should have been  
\$1800, not \$1000). Please discard the earlier  
version. Thanks.

# Memorandum

To : State Board of Control  
926 J Street, Suite 300  
Sacramento, CA 95814

Date: September 25, 1981

Telephone: ATSS ( )  
( )

Attention: Don Provost

Carolyn Burton, Deputy General Counsel  
From : Department of Housing and Community Development  
LEGAL AFFAIRS OFFICE 3 - 7 2 8 8

Subject: Proposed Parameters and Guidelines  
Chapter 1143, Statutes of 1980 (AB 2853)

Attached are the Department's Proposed Parameters and Guidelines for the new mandate found by the Board of Control pursuant to Chapter 1143, Statutes of 1980 (AB 2853) on August 19, 1981. Please forward to all appropriate parties.

Thank you.

CB:dlc  
Attachments

## PROPOSED PARAMETERS AND GUIDELINES

### Chapter 1143, Statutes of 1980

#### 1. MANDATE:

"The State Board of Control found that. a reimbursable mandate requiring 'an increase level of service' existed under Chapter 1143, Statutes of 1980, at its August 19, 1981 meeting. This increased level of service is a result of the requirement that Housing Elements of the General Plan must include a component which describes in detail a locality's fair share of its regional housing needs."

(Letter from Don A. Provost to William D. Ross, dated August 24, 1981)

The "increased level of service" pursuant to Chapter 1143, Statutes of 1980, does not include the following, as has been asserted by claimants:

- a. The preparation of a Housing Element. The mandatory requirement that the Housing Element be prepared and adopted as part of the General Plan has been in law since 1969 (Government Code Section 65302(c)). AB 2853 increases the level of service only insofar as it requires cities and counties to include housing programs which address the locality's share of regional housing needs.
- b. The updating of all General Plan elements to achieve consistency. This requirement (Government Code Section 65300.5) is not mandated by AB 2853. It has been in effect since 1979.

- c. Revision of the Housing Element (the first such revision to be accomplished by July 1, 1984).

While ~~it is~~ the department's view that the requirement to maintain an up-to-date housing element is not new, this issue is outside of the scope of the current Parameters and Guidelines since any costs related to revisions will not be incurred until 1984.

2. OPERATIVE DATE OF MANDATE:

January 1, 1981.

3. PERIOD OF CLAIM:

The first claim filed should be for costs incurred during the period of January 1, 1981 through June 30, 1981. The Revenue and Taxation Code specifically limits reimbursement to costs incurred after the operative date of the mandate,<sup>1/</sup> Subsequent fiscal year costs may be claimed when an entire year's costs have been incurred. The State Board of Control will only act on claim for actual costs, and only one fiscal year shall be included in each claim. On this **basis**, current claims for housing element revisions to be accomplished in 1984 must be rejected.

---

<sup>1/</sup> Section 2235: "If a local agency or a school district, at its option, has been incurring costs which are subsequently mandated by the State, the State shall reimburse the local agency or school district for such costs incurred after the operative date of such mandate."

4. ELIGIBLE CLAIMANTS:

- . Only claimants that meet the mandates of AB 2853 -- i.e., adopt a housing element that complies with the law, should be eligible for reimbursement.

The department was authorized in 1977 by the Legislature to review Housing Elements for conformity with the law (Health and Safety Code Section 50459). AB 2853, amending the Government Code, requires the department to review housing elements, while indicating that the department's findings are advisory to local governments.

The department urges that the Board, in determining whether a jurisdiction has complied with the mandate for which it is claiming reimbursement, likewise consider the department's findings as advisory. In effect, only those jurisdictions that the department has determined have adopted Housing Element's in compliance with housing element law shall be considered eligible for reimbursement.

The claims of the 3 city and county claimants have been analyzed based on the criteria set forth above as follows:

- A. Los Angeles County. Los Angeles County adopted a Housing Element on November 24, 1980 pursuant to the Housing Element Guidelines. The department reviewed

the County's Housing Element and by letter dated February 13, 1981, certified that the element meets the requirements of the Housing Element Guidelines. Therefore, Los Angeles need take no further action or incur any costs since under the provisions of AB 2853 it is "deemed in compliance" with the statute.

Since the County's Housing Element was prepared pursuant to existing law (Government Code Section 65302(c) and the Housing Element Guidelines) any costs associated with the preparation of the Housing Element were not mandated by AB 2853 and were incurred prior to the operative date of the mandate.

The County also alleges future costs in order to achieve a General Plan consistency of all General Plan elements. As noted above, this is not a new mandate of AB 2853.

Any claims related to future revisions to be accomplished in 1984 must be submitted and considered in 1984, the fiscal year in which such costs are incurred.

- B. San Francisco City and County. On January 1, 1981, San Francisco City and County had already adopted a housing element pursuant to the Housing Element

Guidelines. While minor revision&o this element must yet be accomplished in order for the department to make a finding that this element complies with the Guidelines (and therefore is deemed in compliance with AB 2853), this claim should be rejected on the following grounds:

- (1) Similar to Los Angeles County, the costs were incurred prior to the operative date of the mandate, pursuant to existing law; and
- (2) Since revisions have not been made to date, San Francisco does not have a Housing Element that conforms to the law.

C. El Monte. AB 2853 establishes the following:

"Local governments shall conform their housing elements to the provisions of this article on or before October 1, 1981." (Government Code Section 655.86)

If El Monte adopts a Housing Element by October 1, 1981, in conformity with the new statute, its reimbursable costs should be established in accordance with the criteria presented below. If it does not meet the requirements of the new law, its claim should be rejected.

## 5. REIMBURSABLE COSTS: .

In determining what are reimbursable costs pursuant to the new mandate of AB 2853, the department has compared existing housing



- element law with the requirements of AB 2853. As the following comparison of costs indicates, the planning process called for by Section 65302(c) and and Article 10.6 (AB 2853) are essentially the same with the exception of an additional requirement under the new law that each locality address its share of the regional housing needs. (This analysis is supported by Declaration of William Cunningham, Environmental and Land Planners, Attachment 1.)

The eleven items enumerated by William Ross in his Proposed Parameters and Guidelines as being required by AB 2853, are implicit requirements of existing Section 65302(c) and explicit requirements of the Housing Element Guidelines. The Board directed staff, in preparing Parameters and Guidelines to treat the Housing Element Guidelines as advisory. As such, the Guidelines give substance to the brief statutory language of 65302(c) and provide criteria for what should be contained in the Housing Element. Looking to the Guidelines for advice as to what constitutes a Housing Element under Section 65302(c) is particularly appropriate in light of a very recent Court of Appeals opinion on this subject. Camp v. Mendocino County Board of Supervisors, 81 Daily Journal D.A.R. 2721 (C.A.1st, September 1, 1981). In noting that the trial court below had found that Mendocino County's Housing Element did not comply with HCD's regulations (Housing Element Guidelines), the Court of Appeals stated:

"Regardless of whether these regulations were "advisory" or mandatory in the preparation of a housing element for inclusion in a general plan required by section 65300 (see *Bownds v. City of Glendale* (1980) 113 Cal.App.3d 875, 886), the court properly resorted to them for the purpose of determining whether the County's housing element complied with section 65302, subdivision (c).

COMPARISON OF COSTS IN MEETING THE  
REQUIREMENTS UNDER EXISTING LAW AND AB 2853

GOVERNMENT CODE SECTION 65302(c)

The requirement that local jurisdictions adopt a **housing** element as part of the General Plan has existed since 1969. Current Housing Element Law requires that the housing element:

- (1) consist of "standards and plans for the improvement of housing and for provision of adequate sites for housing\*;
- (2) "shall make adequate provision for the **housing** needs of all economic segments of the **community**"; and
- (3) shall "include provisions for not only site-built housing, but also manufactured housing, including mobilehomes and modular homes." (**Government Code Section 65302(c)**)

ARTICLE 10.6 OF THE GOVERNMENT CODE (AB 28531

In 1980, housing **element** requirements were made more specific through the new provisions of Article 10.6. While some of the new **language** parallels the existing language of **65302(c)**, the "adequate provision" requirement was interpreted and **modified** to produce **a reduced obligation** on local governments.

6558.3(b). It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the **community's** ability to satisfy this need within the content of the **general** plan requirements outlined in Article 5 (**commencing with** Section 65300). Under these circumstances, the quantified objectives need not be identical to the identified existing housing needs, but should establish the maximum number of housing units that can be constructed, rehabilitated, and conserved over a five-year time frame.  
(emphasis added)

Thus, the requirement of Section 65302(c) that total housing needs be satisfied is replaced with the more realistic goal that the housing element shall provide for the "maximum number of **housing units** that can be accomplished within a specific time frame.

Further, AB 2853 **explicitly** states that the local revenues for housing development purposes are not **required** to meet even this more limited goal:

**65589(a).** Nothing in this article shall require a city, county, or city or county, to . . . (1) Expend local revenues for construction of housing, **housing** subsidies, --  
**land acquisition,**

cities and counties are required to provide for the housing needs of all economic segments of the community.

#### PLANNING PROCESS REQUIRED

##### A. Analysis of Housing Supply and Housing Needs

The planning process called for by this statute must begin with a comprehensive analysis of the existing housing supply. "Standards and plans for the improvement of housing and for the provision of adequate sites for housing" cannot be accomplished without first analyzing housing characteristics, housing stock condition, overcrowding, and the inventory of land suitable for residential development. Likewise, in order to provide for "the housing needs of all economic segments of the community," an analysis of the community's population in relation to housing needs must be performed. This analysis must include population trends, income characteristics related to housing costs, the housing needs of particular groups (e.g., elderly, handicapped, farmworkers, etc.), and an identification of the constraints preventing the improvement and development of housing.

(Detailed criteria for the analysis of housing needs pursuant to Section 65302(c) is found in Article 3 of the Housing Element Guidelines.)

TABLE 1  
JURISDICTIONS WITH POPULATION OF

	0-15,000	15,000-50,000	50,000-200,000	200,000 +
COST*	\$800	\$1000	\$1200	\$1400

#### PLANNING PROCESS REQUIRED

##### A. Analysis of Housing Supply and Housing Needs

Article 10.6 makes explicit the planning analysis that was required by Section 65302(c). in addition, it adds the locality's share of regional housing needs. It calls for an analysis of housing characteristics including overcrowding, housing stock condition, an inventory of land suitable for residential development, constraints to the improvement and development of housing, special housing needs, and a quantification of existing and projected housing needs for all income levels including the locality's share of the regional housing needs (to be provided by the COG or HCD).

TABLE 1  
JURISDICTIONS WITH POPULATION OF

	0-15,000	15,000-50,000	50,000-200,000	200,000 +
COST*	\$800	\$1000	\$1200	\$1400

\* This estimate is based on discussions with various local planning departments and planning consultants, and reflects the hours required of a local government staff planner at \$15 per hour.

## B. Designing Housing Programs

Once the inventory of the housing supply and an analysis of housing needs is completed, housing programs must be developed in order to meet the needs identified ("To make adequate provision for the housing needs of all economic segments of the community"). In order to conform to the statutory requirements cited above, housing programs must be developed to improve the condition of existing stock, to identify adequate sites for housing for all income levels including manufactured housing and mobilehomes, and to remove constraints and to provide housing for those lower income and other special groups who have been identified as in need of housing assistance.

Detailed criteria for the housing element program are found in Article 4 of the Housing Element Guidelines.

TABLE 2

JURISDICTIONS WITH HOUSING NEEDS OF

	0-500	501-2500	2501-5000	5000 +
COST	\$500	\$1200	\$1800	\$2000

## B. Designing Housing Programs

As noted above, housing program objectives "need not be identical to the identified existing housing needs, but should establish the maximum number that can be constructed, rehabilitated and conserved over a five-year time frame." Again, Article 10.6 parallels the requirements of Section 36530.2(c) by making explicit the housing program requirements implicit in the statute (e.g., requiring them to identify adequate sites for all income levels including mobilehomes, remove constraints to and assist in the development of housing for low and moderate income households, and conserve and improve existing affordable housing stock.)

Housing programs under Article 10.6 must address the locality's share of regional housing needs.

TABLE 2

JURISDICTIONS WITH HOUSING NEEDS OF

	0-500	501-2500	2501-5000	5,000 +
COST	\$500	\$1200	\$1800	\$2000

Article 10.6 calls for each locality to include in its housing needs its share of the regional housing need. The statute calls for this regional share figure to be developed by the COG, or if no COG exists, by HCD. While the jurisdiction will not incur costs for determining its share of regional housing need, it must plan programs in response to this additional housing need. Therefore, the cost of developing additional housing programs reflecting the local share of regional need should be added to the cost above.

TABLE 3

	0-50	50-500	500-1,000	1,000 +
COST	\$50	\$240	\$360	\$400

(These costs are in proportion to the costs the tables above.)

Since the previous costs identified for housing needs analysis and program design (Tables 1 and 2) are the same for compliance under the old law and the new law, Table 3 reflects the only costs associated with complying with the new mandate of AB 2853.

- a. Offsetting Savings. Costs associated with meeting the new mandate of AB 2853 are established exclusively by Table 3 (costs for a jurisdiction to plan programs to address its share of regional housing needs).

However, these costs will be offset by the cost savings from the costs that were required to be incurred under 65302(c) to design programs which "make adequate provision for the housing needs of all economic segments of the community.\*' In contrast, the standard under AB 2853 interprets adequate provision to mean the "maximum number of units that can be constructed, rehabilitated, and conserved over a five-year time frame" without expending local revenues. AB 2853 explicitly states:

It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements. . . . Under these circumstances, the quantified objectives need not be identical to the identified existing housing needs, but should establish the maximum number of housing units that can be constructed rehabilitated, and conserved over a five-year time frame. (emphasis added)

Thus, while Section 65302(c) required planning for programs to meet the community's total housing need, AB 2853 institutes the "maximum effort!" test.